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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,870	12/04/2003	Jorge E. Lopez de Cardenas	68.0425	7870

35204 7590 09/22/2005

SCHLUMBERGER RESERVOIR COMPLETIONS
 14910 AIRLINE ROAD
 ROSHARON, TX 77583

EXAMINER

COLLINS, GIOVANNA M

ART UNIT	PAPER NUMBER
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3672

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/727,870

Applicant(s)

LOPEZ DE CARDENAS ET AL.

Examiner

Giovanna M. Collins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8,9 and 11-28 is/are allowed.
- 6) ☒ Claim(s) 1-7,10 and 29-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>20050809,2004409</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 10 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 10 recites that the phrase "continuous sensing comprises periodically sensing". Continuous and periodic have opposite meanings. It is unclear if the sensing is to be continuously or periodically.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 3-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Schultz 5,273,112.

Schultz discloses a method of optimizing production from a formation without creating undue risk of mechanical instability of the formation, comprising: sensing a bottom hole flowing pressure; comparing the bottom hole flowing pressure to a stability envelope for the formation; and adjusting fluid production to maintain the bottom hole

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flowing pressure within a desired region of the stability envelope (col. 1, lines 57-col. 2, lines 14).

Referring to claim 3, Schultz discloses sensing the bottom hole flowing pressure repeatedly and periodically (col. 1, lines 57-col. 2, lines 14).

Referring to claim 3, Schultz discloses a computerized device to automatically compare the bottom hole flowing pressure to the stability envelope (col. 1, lines 57-col. 2, lines 14).

Referring to claims 4-5 Schultz discloses adjusting a valve or choke to change the fluid production rate (col. 1, lines 57-col. 2, lines 14).

3. Claims 1 3,7 and 29-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Birckhead et al. 6,536,522

Birckhead discloses a method of optimizing production from a formation without creating undue risk of mechanical instability of the formation, comprising: sensing a bottom hole flowing pressure; comparing the bottom hole flowing pressure to a stability envelope for the formation; and adjusting fluid production to maintain the bottom hole flowing pressure within a desired region of the stability envelope (col. 1, lines 1-20).

Referring to claim 3, Birckhead discloses a computerized device to automatically compare the bottom hole flowing pressure to the stability envelope (col. 1, lines 1-20).

Referring to claim 7, Birckhead discloses (fig. 1) using an artificial lift mechanism (60) to change the fluid production rate.

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Referring to claims 29, Birckhead discloses a system for optimizing production of a fluid from a formation without incurring sanding due to mechanical instability of the formation, comprising: means (50) for monitoring a reservoir pressure of the formation and a bottom hole flowing pressure proximate a production completion, and means (60) for periodically adjusting the ratio of bottom hole flowing pressure to reservoir pressure to maintain the ratio at a desired position relative to a predetermined line representative of the maximum pressure ratio under balance for the formation.

Referring to claim 30, Birckhead discloses means (50) for monitoring comprises a pressure sensor.

Referring to claims 31, Birckhead disclose the means for periodically adjusting comprises a flow control mechanism (60) by which bottom hole flowing pressure is changed.

Allowable Subject Matter

4. Claims 8-9,11-28 are allowed.
5. Claim 10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Giovanna M. Collins whose telephone number is 571-272-7027. The examiner can normally be reached on 6:30-3 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David J. Bagnell can be reached on 571-272-6999. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


gmc


David Bagnell
Supervisory Patent Examiner
Technology Center 3670